1949

File No. O. Interest 49

Legal Department

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Subject:—Opinion on the Indian Interest Act

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Office of the R.L.A.

The Shree Krishna Oil and Rice Mills, Viramgam delivered on 27th March 1949, 90 tons of groundnut oil cake to the Mamlatdar of Viramgam at the rate of Rs.130/- per ton under the Release Order issued by the Collector of Ahmedabad dated the 24th March 1949 which was subsequently cancelled on 23rd April 1949 as being invalid. The payment for the goods so delivered was made by the Mamlatdar on 7th May 1949. The mills now claim Rs.60/- as interest and Rs.34/- as loading charges. The question for consideration is whether Government are in law bound to pay the said amounts to the Mills in respect of the sale of groundnut oil cake to Government.

In the Release Order dated the 24th March 1949 it was stated that the rate would be Rs.130/- per ton and that the seller should bear the incidental charges upto the point of laoding the groundnat oil cake in the vehicles. This order was subsequently cancelled but the delivery had already been given. This reduces the sale to an ordinary sale of goods to Government. The price of groundnut cake is not controlled. But from Government Notification A.R.D.D. No.1623-G dated the 5th December 1947 which was subsequently cancelled and from the Circular Circular dated the 15th February 1949 it appears that Government considered the price of Rs.130/- per ton ex-godown as reasonable. If that were so, the party would not have undertaken to bear the expenses of loading in respect of ordinary sales and did the leading at their expense in this case only because a statutory order was passed. The claim for Rs.34/- if found on examination to be correct, may, therefore, be borne by Government.

As regards interest, the payment was made on 7th May 1949 i.e. after about 1 month and 10 days. In the absence of any provision for interest made by virtue of a written instrument, a court may if it shall think fit, allow interest from the time the demand for payment

has been made in writing giving a notice to the debtor that interest will be claimed from the date of such demand until the term of payment. The Mill cannot, therefore, claim interest from the date of delivery of the goods but shall be entitled to interest only from the date, if any, on which they had demanded the payment in writing. (See sec. 1 of the Interest Act, 1839)- The payment of money due from Government always takes time in view of the departmental procedure and safeguards imposed and 1 month and 10 days cannot be said to be an inordinate delay necessitating the payment of interest.

Sd/- P.N.Lad,
Remembrance r of Legal Affairs.

U.R. to A. & F.D. No.9200 dated 13th August 1949.

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